

January 10, 2020

**Via ECF and Email at Failla [NYSDChambers@nysd.uscourts.gov](mailto:NYSDChambers@nysd.uscourts.gov)**

Hon. Katherine Polk Failla  
United States District Judge  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

**Re: Philadelphia Indemnity Insurance Company v. Streb, Inc.  
(Case No. 19-cv-00366 (KPF))**

Your Honor:

Pursuant to Rule 9 of your Honor's Individual Rules of Practice in Civil Cases, plaintiff Philadelphia Indemnity Insurance Company ("PIIC") hereby requests leave to file a redacted version of its Memorandum of Law in Support of its Motion for Summary Judgment and a redacted version of its Rule 56 Statement of Undisputed Facts. PIIC also requests that it be permitted to file under seal Exhibits 3 and 5 of the Declaration of Adam R. Durst submitted in connection therewith. This request is being made pursuant to the requirements set forth in Agreed Protective Order that was So Ordered on July 17, 2019 (*see* Dkt. No. 25).

As you are aware, this action is an insurance coverage dispute in connection with an underlying personal injury action captioned *Shana Guins v. Streb, Inc.* (N.Y. Sup. Ct. Bronx Co., Index No. 34004/2018E) (the "*Guins* action") in which Shana Guins alleges she was injured while attempting to do a forward flip during an acrobatic class at a facility owned and operated by Streb, Inc. ("Streb"). Exhibit 3 consists of the full deposition transcript of Ms. Guins in the *Guins* action that Streb has marked "Confidential – Subject to Protective Order." Further, Exhibit 5 is a written statement from a Streb representative in connection with the accident, which Streb also marked "Confidential – Subject to Protective Order." The redacted portion of PIIC's Memorandum of Law and Statement of Undisputed Facts includes a characterization of those documents. This request is being made as required under paragraph 7 of the Agreed Protective Order. The relevant testimony and statement, and PIIC's characterization thereof, relates to an underlying bodily injury action against Streb that is ongoing. In order to prevent any prejudice against Streb in connection therewith, it is requested that the Court grant PIIC leave to file a redacted version of its Memorandum of Law and Statement of Undisputed Facts, and file Exhibits 3 and 5 under seal.

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Copies of the unredacted versions of the Memorandum of Law and Statement of Undisputed Facts are enclosed for your reference, as are full copies of Exhibits 3 and 5. In addition, copies of the Memorandum of Law and Statement of Undisputed Facts highlighting the information that has been redacted therefrom is also enclosed.

Very truly yours,

  
Adam R. Durst

cc (via ECF and e-mail): John H. Kazanjian, Esq.  
Jessica L. Kyle, Esq.  
Michael Glascott, Esq.

Application GRANTED.

Dated: January 13, 2020  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE